

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MARK A KUHFUS
Claimant

APPEAL NO: 12A-UI-13514-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLOVERLEAF COLD STORAGE CO
Employer

OC: 10/07/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(16) – Incarceration

STATEMENT OF THE CASE:

The claimant appealed a department decision dated November 2, 2012, reference 02, that held he voluntarily quit without good cause attributable to his employer on October 1, 2012, and benefits are denied. A telephone hearing was held on December 11, 2012. The claimant, and witness, Gabrielle Williams McCart, participated. The employer did not participate.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment on February 24, 2012 and last worked for the employer as full-time general laborer on September 26, 2012. The claimant became incarcerated for six days due to a domestic matter and was unable to contact the employer. He was released from jail on October 4. When claimant tried to return to work after his release from jail, he was terminated.

The employer failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(16) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to incarceration on October 4, 2012. An employment separation due to an incarceration is considered a voluntary quit without good cause though the employer effected an employment termination when claimant was released on October 4. The six-day period of absence is considered a voluntary quit. There is no able and available issue as claimant was incarcerated for a brief period.

DECISION:

The department decision dated November 2, 2012, reference 02, is affirmed. The claimant voluntarily quit without good cause attributable to his employer on October 4, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css